



Telephone:
(916) 445-0255

Thomas W. Hayes
Auditor General

STATE OF CALIFORNIA
Office of the Auditor General
660 J STREET, SUITE 300
SACRAMENTO, CALIFORNIA 95814

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P-244.1

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

This letter presents the results of an additional review of a contract award at the Stringfellow Toxic Waste Disposal Site located near Glen Avon, California. The contractor is to develop a plan for final cleanup and closure of the Stringfellow site. This information supplements the Auditor General's October 1983 report entitled "Review of Selected Contracts for Cleanup of the Stringfellow Toxic Waste Disposal Site" (P-244).

We found that the Department of Health Services (department) did not follow all the contractor selection procedures in its RFP and that the department's selection procedures did not ensure that the department treated all prospective contractors fairly. However, we are satisfied that the department established and followed reasonable procedures to select the five most technically qualified prospective contractors. Thus, the State should proceed with the contractor it selected from these five prospective contractors since repeating the request for proposal process would be costly and since the bids from the five prospective contractors were below the \$1.7 million budgeted for the contract. We do recommend that the department make changes in its contractor selection procedures before conducting the contracting process in the future.

In conducting our review, we interviewed officials from the department and the U.S. Environmental Protection Agency (EPA) who were involved in the selection process. We also reviewed the contractor selection criteria found in the State Administrative Manual, the State Contract Act, and the department's contract manual and request for proposal (RFP). Finally, we obtained from the department the score sheets that its review team used to score and rank the prospective contractors' proposals. We have discussed the contents of this report with officials from the department.

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Contractor Selection Process

To select a contractor to develop a plan for the final cleanup and closure of the Stringfellow Toxic Waste Disposal Site, the department prepared an RFP. The department released its RFP to potential bidders on June 13, 1983, and it received 11 proposals by the July 19, 1983, deadline. In its RFP, the department stated that it would evaluate each proposal on the basis of content, technical merit, and cost. The RFP required the department to eliminate from the selection process those proposals whose content deviated materially from the RFP's requirements. According to the RFP, responses that deviated materially from the RFP's requirements included those that may have a significant effect on the quantity and quality of services, or those that may provide an advantage to one bidder over other bidders.

The RFP required the department to assign scores to proposals based upon their technical merits, that is, how well the proposals met the RFP's requirements. In addition, the RFP required the department to review the cost proposals of the five firms that ranked the highest in the technical review. The department was also to identify and select the most cost-effective proposal using a specific formula that considered cost and technical merit. The RFP did not require the department to assign scores to proposals based on their content. Finally, the RFP provided that the department could elect to interview prospective contractors after scoring the proposals. However, the RFP did not specify how the department should score the proposals after these interviews.

After receiving the proposals, the department established a team to review and score them. The team consisted of 14 staff representing the department, the EPA, and two firms that have contracted with the EPA to provide technical services comparable to those required in the RFP.

Six members of the fourteen-member review team interviewed the five finalists. Based on its assessment, this review team recommended that the department award the contract to JRB Associates. The department concurred with the review team's selection and offered the contract to JRB Associates. The department and JRB Associates signed a contract in March 1984. There were no formal protests to the award of the contract.

Since the passage of Chapter 1044, Statutes of 1983, all contracts to clean up releases of hazardous waste material and contracts involving "imminent and substantial danger" are exempt from the State Contract Act and from provisions of state law concerning engineering contracts and review by the Department of General Services. The Director of the

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Department of Health Services determined that there was an imminent and substantial endangerment to the public at the Stringfellow site in March 1983.

Assessment of the Department's
Contractor Selection Process

The Department of Health Services did not always follow its RFP selection procedures. Consequently, the department did not have an accurate assessment of the proposals' cost effectiveness. The department also used selection procedures that did not ensure that the department treated all prospective contractors fairly. However, we are satisfied that the department established and followed reasonable procedures to select the five most technically qualified prospective contractors.

The department did not always follow the contractor selection procedures specified in its RFP. For example, to evaluate a proposal's cost effectiveness, the RFP required that the department calculate a single score for each proposal reflecting the proposal's technical merit and cost. The RFP required the department to calculate this measure of cost effectiveness by dividing each prospective contractor's total proposed cost by its total score for technical merit. However, in calculating cost effectiveness, the department used a formula not described in the RFP that does not properly factor the scores for technical merit. According to the formula that the department followed, if two proposals had the same cost, the proposal with the highest technical score would not necessarily be considered the most cost effective. However, the department did not use this formula during the interview process to rescore the five finalists or to select the final proposal. Thus, this inaccurate selection formula had no effect on the department's awarding the contract to JRB Associates.

Another instance in which the department did not follow the requirements in its RFP pertains to material deviations. According to the RFP, any proposal that contained a material deviation from the RFP requirements should have been rejected. According to the department's project manager for the Stringfellow site, the proposal from Woodward-Clyde did not include all of the work specifically described in the RFP. Consequently, Woodward-Clyde's total proposed cost for completing the work was significantly lower than the total costs proposed by other bidders. Thus, Woodward-Clyde had an advantage over other prospective contractors. When questioned on this matter, department officials acknowledged that there had been a material deviation in Woodward-Clyde's proposal; however, the department was not fully aware of the deviation until the interview with Woodward-Clyde. The department did not subsequently

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reject Woodward-Clyde's proposal; instead the department rescored the proposal after the interview. Woodward-Clyde's relative ranking dropped from first to third.

If the prospective contractors ranked first and second had been unable to resolve contractual differences with the State, the department may have awarded the contract to the third-ranked prospective contractor. Consequently, Woodward-Clyde could have been awarded the contract even though its proposal deviated from the requirements specified in the RFP.

The department's contractor selection procedures were not sufficient to ensure that the department treated all prospective contractors fairly. Specifically, the department's RFP did not specify how proposals should be scored during the interviews with prospective contractors. Therefore, the prospective contractors could not know from reading the RFP how the interview process, if used, would affect the relative ranking of each proposal. In order for all prospective contractors to be treated fairly in the selection process, each prospective contractor should be completely apprised of the proposal requirements at the time the RFP is sent to the prospective contractors.

Because the RFP did not establish criteria for rescored proposals after the interview process, we were unable to determine whether the department followed its procedures for rescored proposals. When questioned on why the review team rescored Woodward-Clyde's proposal, the department's project manager for the Stringfellow site stated that Woodward-Clyde's proposal was rescored because of additional information provided to the review team during the interview process. As a result of the rescored, Woodward-Clyde's proposal dropped from first to third position. After the department awarded the contract, the department's legal counsel reviewed the department's contractor selection procedures. The legal counsel recommended that the interview process be specifically detailed in the RFP to avoid potential protests from prospective contractors.

Assessment of the Department's Proposal Scoring Process

We are satisfied that the department established and followed reasonable procedures to select the five most technically qualified prospective contractors. However, as described earlier, there were problems in selecting a contractor from the five finalists. The department's project manager for the Stringfellow site told us that he found each of the five final proposals acceptable technically. Furthermore, the review team's initial technical scores for each of the five proposals did not differ significantly.

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According to the RFP's requirements, the review team began by assigning a score of up to 100 points based on technical merit to each of the 11 proposals received. It then evaluated the cost information for the 5 proposals receiving the highest scores in the technical review. These 5 proposals were considered to be the most technically qualified. Table 1 below shows the 5 highest ranking prospective contractors based on the technical review, the scores for technical merit, and the total cost of each proposal. As shown in Table 1, the technical scores for the 5 highest ranking proposals were all within 4.7 points of one another.

TABLE 1
**HIGHEST RANKING PROSPECTIVE
CONTRACTORS' SCORES FOR TECHNICAL
MERIT AND TOTAL PROPOSED COST**

<u>Prospective Contractor</u>	<u>Technical</u>		<u>Cost</u>	
	<u>Score</u>	<u>Rank</u>	<u>(Millions)</u>	<u>Rank</u>
Woodward-Clyde Consultants	73.7	1	\$1.12*	1
Camp Dresser & McKee Inc.	72.0	2	\$1.66	5
Weston	71.0	3	\$1.66	4
Tetra Tech, Inc.	69.8	4	\$1.65	3
JRB Associates	69.0	5	\$1.43	2

*Woodward-Clyde's proposed cost did not reflect all work required in the RFP.

After scoring the proposals, the review team elected to interview prospective contractors to clarify certain portions of their proposals and to obtain additional information regarding the prospective contractors' understanding of the job.

Before interviewing prospective contractors, the review team calculated a single score for each proposal to evaluate the proposal's cost effectiveness. The single score was derived from each proposal's technical score and total cost. According to the department's formula, lower scores represent greater cost effectiveness. As shown in Table 2 below, the review team ranked Woodward-Clyde's proposal first and JRB Associates' proposal second in cost effectiveness.

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TABLE 2

**HIGHEST RANKING PROSPECTIVE CONTRACTORS
COST-EFFECTIVENESS SCORES**

<u>Prospective Contractor</u>	<u>Score</u>
Woodward-Clyde Consultants	0.74*
JRB Associates	0.88
Tetra Tech, Inc.	1.03
Weston	1.05
Camp Dresser & McKee Inc.	1.07

*Woodward-Clyde's proposed cost did not reflect all work required in the RFP.

The review team did not use the cost-effectiveness formula described in the RFP to calculate the scores in the table above. However, if the department had used the formula described in the RFP, the first and second ranked firms would have remained the same.

After the interviews, the review team assigned new scores to each proposal. The RFP did not specify how the department should score the proposals after these interviews. These new scores were based on the technical and cost information contained in the prospective contractor's proposal and on information obtained from the prospective contractors during their interviews. Table 3 below shows the final score and rank for each of the five prospective contractors.

TABLE 3

**HIGHEST RANKING PROSPECTIVE CONTRACTORS
RANK AND FINAL SCORES**

<u>Prospective Contractor</u>	<u>Score</u>
JRB Associates	85.2
Camp Dresser & McKee Inc.	76.7
Woodward-Clyde Consultants	76.5
Tetra Tech, Inc.	75.7
Weston	74.0

As the table shows, the review team ranked JRB Associate's proposal first and Woodward-Clyde's proposal third after interviewing each prospective contractor. Based on the review team's recommendation, the department awarded the contract to JRB Associates.

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Recommendations

The Department of Health Services should proceed with the contractor it selected. However, to improve its contractor selection process, the department should clearly describe how the interview process, if used, will affect the selection of the final proposal. The department should also ensure that the evaluation formulas used to rank proposals are analytically sound. Finally, the department should reject proposals with material deviations from the RFP at the time the deviation is identified, and the department should explain in writing the reason for rejecting the proposal.

Sincerely,



for THOMAS W. HAYES
Auditor General

cc: Senator Robert Presley